



UNIVERSITY OF MINNESOTA
BOARD OF REGENTS POLICY

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Human Resources

SEXUAL MISCONDUCT

Adopted: TBD

Supersedes: (see end of policy)

SEXUAL MISCONDUCT

SECTION I. SCOPE.

This policy governs the University of Minnesota's (University) commitment to preventing and addressing sexual misconduct.

SECTION II. DEFINITIONS.

- (a) **Sexual Misconduct.** *Sexual misconduct* shall mean sexual assault, relationship violence, stalking, sexual harassment and related retaliation.
- (b) **Sexual Harassment.** *Sexual harassment* shall mean unwelcome conduct of a sexual nature under either of the following conditions:
- (1) When submission to such conduct is implicitly or explicitly: (a) made a condition of an individual's employment or academic standing or advancement; or (b) used as the basis of an employment or academic decision affecting that individual (quid pro quo sexual harassment).
 - (2) When the conduct is: (a) severe, persistent or pervasive; and (b) unreasonably interferes with an individual's employment or academic performance or creates a work or academic environment that a reasonable person would find to be intimidating or hostile (hostile environment sexual harassment).
- (c) **Sexual Assault.** *Sexual assault* shall mean actual, attempted or threatened sexual contact without affirmative consent.
- (1) *Sexual contact* is intentional sexual touching with an object or body part that, depending on the context, may include, but is not limited to: (a) intentionally touching the breasts, buttocks, groin or genitals of another individual; (b) intentionally touching another individual with any of these body parts; and (c) making an individual touch another individual or themselves with, or on, any of these body parts. Sexual contact can occur whether or not an individual's body parts are covered by clothing.
 - a. *Sexual penetration* is sexual contact that includes, but is not limited to: (a) vaginal penetration by a penis, tongue, finger or any other body part or object; (b) anal penetration by a penis, tongue, finger or any other body part or object; and (c) contact between the mouth of one individual and the genitalia of another individual.
 - (2) *Affirmative consent* is an informed, freely and affirmatively communicated willingness to participate in sexual contact that is expressed by clear and unambiguous words or



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actions. Clear and unambiguous words and actions are those that are freely and actively given by informed individuals that a reasonable person would believe communicate a willingness to participate in mutually agreed upon sexual contact.

- (d) **Relationship Violence.** *Relationship violence* shall mean actual, attempted or threatened physical harm by an individual who is, or has been, in a sexual, dating, spousal, or other romantic relationship with the individual receiving the actual, attempted or threatened harm.
- (e) **Stalking.** *Stalking* shall mean a course of conduct directed at a specific individual that is unwanted, unwelcome, or unreciprocated and that would cause a reasonable person to feel fear for their safety or suffer substantial emotional distress. A course of conduct is two or more acts including, but not limited to, acts in which an individual directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about another individual, or interferes with another individual's property.
- (f) **Retaliation.** *Retaliation* shall mean taking an adverse action against an individual because of the individual's good faith participation in reporting sexual misconduct, expressing opposition to sexual misconduct to at least one other person, participating in an investigation related to a sexual misconduct allegation, or accessing Conflict Resolution Services to resolve a conflict related to sexual misconduct.
- (1) *Adverse actions* may include, but are not limited to: impeding the individual's academic advancement; departing from any customary academic or employment practice regarding the individual; firing, refusing to hire, or refusing to promote the individual; transferring or assigning the individual to a lesser position in terms of wages, hours, job classification, job security, employment or academic status; threatening or marginalizing an individual and taking any other action that might deter a reasonable person from engaging in an activity protected by this policy. In some situations, an adverse action may also include informing people who do not have a need to know that an individual has engaged in activity protected by this policy.
- (g) **Member of the University Community.** *Member of the University community* shall mean any:
- (1) University student;
 - (2) University employee; or
 - (3) third party who is engaged in any University activity or program, or who is otherwise interacting with the University, including, but not limited to, volunteers, contractors, vendors, visitors and guests.

SECTION III. GUIDING PRINCIPLES.



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The following principles shall guide the University's commitment to preventing and addressing sexual misconduct:

- (a) Consistent with its academic mission and standards, the University is committed to achieving excellence by working to create an educational, employment and residential living environment that is free from sexual misconduct.
- (b) The University is committed to preventing and addressing sexual misconduct through education and prompt, thorough and procedurally fair investigative procedures.
- (c) As a community of faculty, staff and students engaged in research, scholarship, artistic activity, teaching and learning, and activities that support them, the University seeks to foster an environment that is equitable, humane and responsible and where all are treated with dignity and respect.

SECTION IV. IMPLEMENTATION.

The University shall:

- (a) prohibit members of the University community from engaging in, or assisting or abetting another's engagement in, sexual misconduct;
- (b) require employees to take timely and appropriate action when they know or should know that sexual misconduct is occurring or has occurred;
- (c) adopt procedures on each campus for investigating and resolving complaints of sexual misconduct in coordination with the director of the Office of Equal Opportunity and Affirmative Action; and
- (d) address violations of this policy through disciplinary or other responsive action up to and including termination of employment or academic dismissal.

SECTION V. MONITORING.

The president or the president's delegate shall address complaints of sexual misconduct consistent with this policy and law and remedy any practice that deviates from this policy.

Supersedes: Sexual Harassment dated May 11, 2012